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EXAMINER

LAYE, JADE O

ART UNIT PAPER NUMBER

2617

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/896,733	BOWERS, J. ROB	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jade O. Laye	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 3, 14 and 31-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☒ Claim(s) 9 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

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### *Response to Arguments*

I. Applicant's arguments filed 10/12/05 have been entered and fully considered, however they are unpersuasive. Accordingly, **THIS ACTION IS MADE FINAL**.

Applicant argues Bommaiah et al fail to anticipate Claim 1 because the aggregation module of the disclosed system does not remove redundant requests and then, subsequently, download a single copy of the requested media. Although Applicant's interpretation of Bommaiah may be correct, the Examiner need not address this argument because Applicant's Claim language does not reflect such an interpretation. Nowhere in Applicant's Claim language, is it required to first perform step (a), then step (b), and so on. When giving Claims their broadest and most reasonable interpretation, the Examiner is not required to interpret steps in a method Claim as occurring sequentially (i.e., step a, then step b, then step c) unless, of course, the Claim language makes it clear this is required.

Therefore, as opined in the previous Non-Final Action, Bommaiah et al do anticipate each and every limitation of Claim 1. Moreover, Bommaiah further discloses the system does (1) remove redundant requests from clients and (2) requests a single copy of streaming media from a server. (Col. 5, Ln. 55-65). Although, step (2) appears to be performed before step (1) as argued by Applicant, Bommaiah still reads upon Claim 1 because Applicant fails to claim that step 1 must occur before step 2. Therefore, Bommaiah also anticipates the amended limitations of Claim 1.

It is recommended the Applicant amend the Claims to particularly point out and distinctly claim the steps in sequence. For example, in Claim 1, Applicant could claim:

- (a) receiving...
- (b) after step (a), using...removing redundant requests...
- (c) after step (b) requesting a single copy...

This would appear to overcome the present rejection as argued. However, the Examiner reserves the right to make other arguments as related to the Bommaiah reference.

### ***Claim Objections***

II. Claims 9 and 24 are objected to because of the following informalities:

- a. Claim 9 appears to contain a typo in the phrase "...when to *delivery* the single copy...". It phrase should recite "...when to deliver...".
- b. Claim 24 contains the phrase "...wherein comparing occurs...". The claims should recite "...wherein *the* comparing occurs..."

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

III. Claims 1, 2, 4, 6, 10, 11, 21, 25, 27, 38, and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Bommaiah et al. (US Pat. No. 6,708,213).

As to claim 1, Bommaiah et al disclose a system and method for streaming multimedia information over public networks in a way which removes redundant requests for media. Specifically, Bommaiah's system comprises a helper server ("HS") and proxy module having a single connection to a wide area network (i.e., Internet). The HS is comprised of an aggregation module, buffer, and said proxy module, which can deliver content in a unicast or multicast format. (Abstract; Col. 1, Ln. 48-55; Col. 2, Ln. 57-Col. 3, Ln. 5; Col. 4, Ln. 31-62; Col. 5, Ln. 43-65; Col. 6, Ln. 36-Col. 7, Ln. 27; Col. 10, Ln. 23-49). Bommaiah further discloses the system does (1) remove redundant requests from clients and (2) requests a single copy of streaming media from a server. (Col. 5, Ln. 55-65). Moreover, it is inherent Bommaiah's system contains client identifiers because the system is capable of unicasting multimedia. In order to locate the intended user in a unicast transmission, the system must have some way of identifying said user. Thus, some form of identifier is inherently disclosed. Accordingly, Bommaiah et al anticipate each and every element of claim 1.

Claims 10, 11, 25, and 27 either correspond to or are encompassed within the limitations of claim 1. Thus, each is analyzed and rejected as previously discussed.

As to claim 2, Bommaiah further discloses the aggregation module is remotely located from said client devices. (Fig. 1; Col. 2, Ln. 57-Col. 3, Ln. 5). Accordingly, Bommaiah et al anticipate each and every element of claim 2.

As to claim 4, Bommaiah further teaches the system is capable of transmitting separate copies (i.e., instances) of the streaming media. (Col. 6, Ln. 59-Col. 7, Ln. 27). Accordingly, Bommaiah et al anticipate each and every element of claim 4.

As to claim 6, Bommaiah further discloses the use of multicasting. (same rejection as claim 4 and Col. 10, Ln. 6-15). Accordingly, Bommaiah et al anticipate each and every element of claim 6.

Claim 21 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

Claim 38 is encompassed within the limitations of claims 1. For clarification, the Examiner rejects sub-element (c) of claim 38 because Bommaiah delivers streaming media at various transfer rates (i.e., formats), which can be chosen based upon available bandwidth. (Col. 8, Ln. 1-56). Accordingly, Bommaiah et al anticipate each and every limitation of Claim 38.

Claim 39 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

IV. Claims 5, 7, 15-17, 20, 29, 30, and, 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of Kuhn. (US Pat. Pub. No. 2002/0157112).

Claim 5 recites the method of Claim 1, further comprising selecting a media format for delivering the media stream. As discussed above, Bommaiah anticipates each and every limitation of Claim 1, but fails to specifically disclose selecting a media format. However,

within the same field of endeavor, Kuhn discloses a similar system which transcodes multimedia data into various media formats (i.e., MPEG). (Pars. [0001, 0023, 0045]). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah and Kuhn in order to provide a system which can facilitate the distribution of multimedia data in various media formats.

Claims 15 and 29 correspond to Claim 5. Thus, each is analyzed and rejected as previously discussed.

Claims 7, 20, 30, 48 are encompassed within the limitations of Claim 5. Thus, each is analyzed and rejected as discussed previously.

Claim 16 mirrors the language of claim 4. Thus, it is analyzed and rejected as discussed therein.

Claim 17 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

V. Claims 8, 9, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of Durana et al. (US Pat. No. 6,018,765).

Claim 8 recites the system of claim 1, wherein the system comprises a cable system having a plurality of used and unused channels. As discussed above, Bommaiah et al anticipate each and every limitation of claim 1, but fail to specifically disclose the use of used and unused channels. However, within the same field of endeavor, Durana et al disclose a similar system which utilizes multiple used and unused channels. (Abstract; Col. 2, Ln. 5-13; Col. 7, Ln. 19-37). Accordingly, it would have been obvious to one having ordinary skill in this art at the time

of Applicant's invention to combine the systems of Bommaiah and Durana in order to provide a system which greater transmission flexibility.

Claim 9 recites the method of claim 8, further comprising identifying when to deliver the streaming media on at least one of the unused channels. As discussed above, the combined system of Bommaiah and Durana disclose all limitations of claim 8, and Bommaiah further discloses the system can process multiple requests at multiple time periods. (Col. 5, Ln. 41-Col. 7, Ln. 45). Therefore, the system must determine "when" to deliver the requested streams. Accordingly, the combined systems of Bommaiah and Durana disclose all limitations of claim 9.

Claim 26 recites the computer program product of claim 25, wherein the computer instructions further comprise program code means for generating each request form each of the plurality of receivers using an input device. As discussed above, Bommaiah anticipates each and every limitation of claim 25, but fails to specifically discuss the use of a remote control. However, Durana discloses the use of such a device. (Col. 4, Ln. 4-11). Accordingly, the combined systems of Bommaiah and Durana disclose all limitations of claim 26.

VI. Claims 12-13 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al.

Claim 12 recites the method of claim 11, wherein the network is selected from the group consisting of a wide area network and a local area network. As discussed above, Bommaiah et al anticipate each and every limitation of claim 11, and further teaches the use of the Internet (i.e., wide area network). But, Bommaiah fails to specifically discuss local area networks. However, the Examiner takes Official Notice that, at the time of Applicant's invention, the use of local area



networks was notoriously well known in this art. (as evidenced by *Belknap et al US Pat. No. 5,586,264* at Col. 5, Ln. 40-44). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the system of Bommaiah to also include a local area network, thereby providing a more efficient distribution network.

Claim 13 recites the method of claim 12, wherein the network is the Internet. This limitation is disclosed within the rejection of claim 12. Thus, claim 13 is analyzed and rejected as previously discussed.

Claim 28 recites the method of claim 27, further comprising delivering the buffered single copy of the streaming media from the aggregation module to the termination system. As discussed above, the system of Bommaiah anticipates all limitations of claim 27, and further discloses the HS serves as both a proxy module and termination (i.e., transmission/reception) system. (discussed in previous rejections). Although Bommaiah's system may not specifically disclose transmitting the streaming media from the proxy to the termination module, this would be an obvious variation and a matter of design choice. Bommaiah's system simply includes each within the HS. Accordingly, the modified system of Bommaiah discloses all limitations of claim 28.

VII. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah in view of Kuhn as applied to claim 15 above, and further in view of Durana.

Claim 18 recites the method of Claim 15, and limitations which will not be recited herein (but each will be addressed in turn). As discussed above, Bommaiah and Kuhn disclose all limitations of Claim 15, but fail to disclose the remainder of the limitations. However, within the

same field of endeavor, Durana et al disclose a similar system which utilizes multiple used and unused channels. (Abstract; Col. 2, Ln. 5-13; Col. 7, Ln. 19-37). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah, Kuhn, and Durana in order to provide a system with greater transmission flexibility.

Claim 19 recite the method of claim 18, wherein the system is a cable, television, or satellite system. As discussed above, the combined system of Bommaiah, Kuhn, and Durana disclose all limitations of claim 18, and Durana further discloses a cable system (Durana is a cable system). Accordingly, the combined systems of Bommaiah, Kuhn, and Durana disclose all limitations of claim 19.

VIII. Claims 22-24, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of McClain et al. (US Pat No. 6,722,214).

Claim 22 recites the method of claim 21, further comprising limitations too numerous to recite herein. (please refer to claim sheet). As discussed above, Bommaiah et al anticipate each and every limitation of claim 21, but fail to specifically disclose the limitations of claim 22. However, within the same field of endeavor, McClain et al disclose a similar system which compares a rating code associated with a web page (i.e., URL) against a stored policy list (i.e., rating list), in order to determine if the requesting receiver is authorized to receive said requested content. (Abstract; Col. 2, Ln. 55-65). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah and McClain in order to provide a system with advanced filtering techniques.

Claim 23 is encompassed within the language of claim 22. Thus, it is analyzed and rejected as previously discussed.

Claim 24 recites the method of claim 22, wherein the comparing occurs upon the proxy module. As discussed above, the combined systems of Bommaiah and McClain disclose all limitations of claim 22, and McClain further discloses the proxy module performs said comparison. (Col. 2, Ln. 17-35). Accordingly, the combined systems of Bommaiah and McClain disclose all limitations of claim 24.

Claim 40 recites the method of claim 33, wherein the access system comprises at least one of each of a proxy module, a parental control module, and an aggregation module. As discussed above, Bommaiah anticipates all limitations of claim 38, and further teach the use of a proxy and aggregation module. (discussed previously under rejection of claim 1). But, each fails to specifically disclose the use of a parental control system. However, as discussed under claim 22, McClain does disclose such a system which can be used as a parental control system. (Col. 1, Ln. 17-22). For the sake of brevity, a motivation statement will not be supplied. (please refer to previous motivation statements). Accordingly the combined systems of Bommaiah, Durana, and McClain disclose all limitations of claim 34.

Claim 41 is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

IX. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of McClain as applied to claim 40 above, and further in view of Kuhn.

Claim 42 recites the method of Claim 41, wherein the aggregation module is configured to convert the retrieved media into a standardized media format. As discussed above, the combined systems of Bommaiah and McClain disclose all limitations of Claim 41, but fail to disclose the remaining limitations of Claim 42. However, within the same field of endeavor, Kuhn discloses a similar system which transcodes multimedia data into various media formats (i.e., MPEG). (Pars. [0001, 0023, 0045]). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah, McClain, and Kuhn in order to provide a system which can facilitate the distribution of multimedia data in various media formats.

X. Claims 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah et al in view of Brown. (US Pat No. 5,771,435).

Claim 43 recites the system of Claim 38, wherein the aggregation module is configured to dynamically vary delivery of the requested media as either independent streams or as a multicast depending on traffic load on the network. As discussed above, Bommaiah anticipates each and every limitation of Claim 38, but fail to disclose the limitation of Claim 43. However, within the same field of endeavor, Brown discloses a similar system which transmits a video on demand program (i.e., unicast) or near video on demand program (i.e., multicast) based upon network traffic. (Abstract; Col. 2, Ln. 55-67). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah and Brown in order to provide a "smart" system which only unicasts programming when it has sufficient bandwidth to do so.

As to Claim 44, Bommaiah further teaches the system is capable of transmitting multiple copies of the multimedia data to the receivers (i.e., multicasting). (Col. 6, Ln. 59-Col. 7, Ln. 27). Accordingly, the combined systems of Bommaiah and Brown disclose all limitations of Claim 44.

The limitations of Claim 45 are encompassed within the limitations of Claim 44. Thus, it is analyzed and rejected as previously discussed.

XI. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommaiah in view of Brown as applied to claim 43 above, and further in view of Durana.

Claim 46 recites the system of Claim 45, wherein each of the receivers is capable of displaying a plurality of channels, at least of which is unused. As discussed above, the combined systems of Bommaiah and Brown disclose all limitations of Claim 45, but fail disclose the limitations of Claim 46. However, within the same field of endeavor, Durana et al disclose a similar system which utilizes multiple used and unused channels. (Abstract; Col. 2, Ln. 5-13; col. 7, Ln. 19-37). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of Bommaiah, Brown, and Durana in order to provide a system with greater transmission flexibility.

Claim 47 is encompassed within the limitations and rejection of Claim 46. Accordingly, it is analyzed and rejected as previously discussed.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye  
December 16, 2005.

  
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